

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **DISTRICT OF NEVADA**

3   YOUSIF H. HALLOUM,

4                   Appellant

5   v.

6   WELLS FARGO BANK, N.A.

7                   Appellee

Case No.: 2:19-cv-00037-APG

**Order 1) Dismissing Appellant's Appeal  
and 2) Denying Appellant's Motions**

[ECF Nos. 16, 19, 22, 31, 32, 34-37, 42-44,  
46, 49, 53, 54]

9           Appellant Yousif Halloum appeals the bankruptcy court's order denying his motion to  
10 transfer his bankruptcy proceeding, including his adversary action against Wells Fargo Bank,  
11 N.A. (Wells Fargo), to the Bankruptcy Court in the Northern District of California. Wells Fargo  
12 objects to this appeal on a number of grounds. It contends that Halloum did not seek leave to file  
13 an interlocutory appeal, so the appeal should be dismissed. It also contends that the bankruptcy  
14 court did not abuse its discretion in denying transfer because Halloum failed to establish (1) any  
15 change in circumstances warranting the transfer, (2) that the Northern District of California is a  
16 proper venue, or (3) any mistake of law or erroneous finding by the bankruptcy judge. Wells  
17 Fargo contends that the factors do not weigh in favor of transferring the case, so the bankruptcy  
18 court's decision should be affirmed.

19           After filing the appeal, Halloum filed numerous motions seeking, among other things, to  
20 transfer his case to the Northern District of California and to dismiss several bankruptcy court  
21 orders. I dismiss Halloum's appeal because I decline to exercise my discretion to hear this  
22 interlocutory appeal.

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1 **I. DISCUSSION**

2 *A. Leave to Appeal*

3 Orders transferring or denying transfer based on forum non conveniens are not appealable  
4 orders. *See Shapiro v. Bonanza Hotel Co.*, 185 F.2d 777, 779 (9th Cir. 1950). Therefore,  
5 Halloum’s appeal is interlocutory and may proceed only with leave of the court. *See* 28 U.S.C.  
6 § 158(a)(3). Although Halloum did not file a motion seeking leave to appeal, I will treat the  
7 notice of appeal as such a motion for leave. Fed. R. Bankr. P. 8003(c); *In re Sperna*, 173 B.R.  
8 654, 658 (B.A.P. 9th Cir. 1994). To determine if leave should be granted, I look to the standards  
9 set forth in 28 U.S.C. § 1292(b). *In re Sperna*, 173 B.R. at 658. I consider whether “the order on  
10 appeal involves a controlling question of law as to which there is a substantial ground for  
11 difference of opinion and whether an immediate appeal may materially advance the ultimate  
12 termination of the litigation.” *In re Roderick Timber Co.*, 185 B.R. 601, 604 (B.A.P. 9th Cir.  
13 1995).

14 Section 1292(b) is “to be used only in exceptional situations in which allowing an  
15 interlocutory appeal would avoid protracted and expensive litigation.” *In re Cement Antitrust*  
16 *Litig.*, 673 F.2d 1020, 1026 (9th Cir. 1981). The burden rests on the appellant to persuade the  
17 court “that exceptional circumstances justify a departure from the basic policy of postponing  
18 appellate review until after the entry of a final judgment.” *Coopers & Lybrand v. Livesay*, 437  
19 U.S. 463, 475 (1978). I have discretion to deny the appeal for any reason. *Id.*; *see also In re City*  
20 *of Desert Hot Springs*, 339 F.3d 782, 787 (9th Cir. 2003) (“It is within the discretion of the  
21 district court and the BAP [ ] to hear interlocutory appeals. . . . We have no jurisdiction to  
22 consider whether such exercises of discretion are proper”).

1 Here, Halloum has not justified allowing an interlocutory appeal. Halloum filed his  
2 petition for bankruptcy and adversary action in the District of Nevada. He does not argue that  
3 venue is improper. Instead, he argues that it would be more convenient to continue litigating the  
4 case in the Northern District of California because he now lives in that district. He contends that  
5 all of the witnesses are in California but he did not provide the names of any of the potential  
6 witnesses. *See* ECF No. 14 at 19-22. And neither property involved in the bankruptcy case is  
7 located in the Northern District of California. *Id.* at 23-24. There is no controlling question of  
8 law at issue to be decided. There are no exceptional circumstances justifying a departure from  
9 the traditional rule of postponing appellate review until after the entry of a final judgment.

10 *B. Bankruptcy Judge's Order Denying Motion To Transfer Venue*

11 Even if I considered Halloum's appeal, I would affirm the bankruptcy judge's decision. I  
12 review conclusions of law *de novo* and factual findings under the clear error standard. *In re*  
13 *Rains*, 438 F.3d 893, 900 (9th Cir. 2005). Further, I review decisions regarding whether to  
14 transfer a case to another district for an abuse of discretion. *In re Donald*, 328 B.R. 192, 196  
15 (B.A.P. 9th Cir. 2005); *Jones v. GNC Franchising, Inc.*, 211 F.3d 495, 498 (9th Cir. 2000). "A  
16 bankruptcy court abuses its discretion if it applies the law incorrectly or if it rests its decision on  
17 a clearly erroneous finding of a material fact." *In re Morabito*, 596 B.R. 718, 725 (D. Nev. 2019)  
18 (quoting *In re Brotby*, 303 B.R. 177, 184 (B.A.P. 9th Cir. 2003)).

19 Here, the bankruptcy judge did not abuse his discretion in denying Halloum's motion to  
20 transfer venue. A judge may transfer a case to a district where the case could have been brought  
21 for the convenience of the parties and in the interests of justice. 28 U.S.C. § 1404(a). Courts  
22 weigh several factors when deciding whether transfer is appropriate, including: "1) the location  
23 where the relevant agreements were negotiated and executed, (2) the state that is most familiar

1 with the governing law, (3) the plaintiff's choice of forum, (4) the respective parties' contacts  
2 with the forum, (5) the contacts relating to the plaintiff's cause of action in the chosen forum,  
3 (6) the differences in the costs of litigation in the two forums, (7) the availability of compulsory  
4 process to compel attendance of unwilling non-party witnesses, and (8) the ease of access to  
5 sources of proof." *Jones*, 211 F.3d at 498-99.

6       The bankruptcy judge declined to transfer the case because Halloum chose to file his  
7 petition for bankruptcy and adversary action in Nevada, has property in Nevada that is relevant  
8 to the bankruptcy proceeding, and does not have property in the Northern District of California  
9 where he wants the action to be transferred. ECF No. 14 at 28. While Halloum stated he now  
10 lives in the San Francisco bay area and that transfer would assist with the availability of  
11 witnesses, he provided no names of potential witnesses to the bankruptcy court. *Id.* at 19-20.  
12 Further, the bankruptcy judge will have to apply California law to the California property and  
13 Nevada law to the Nevada property. Even if it costs more for Halloum to litigate in Nevada, the  
14 bankruptcy judge did not abuse his discretion in finding that the factors weighed in favor of  
15 denying the transfer.

16       *C. Halloum's Outstanding Motions*

17       Halloum filed numerous other motions, some relevant to this appeal and some not. I  
18 dismiss the motions as moot. The only issue before me on appeal was whether the bankruptcy  
19 judge properly denied transferring Halloum's case. If Halloum seeks to appeal further decisions  
20 of the bankruptcy court, he must file new appeals in the appropriate forum at the appropriate  
21 time.

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23 ////

1 **II. CONCLUSION**

2 I HEREBY ORDER appellant Yousif Halloum's appeal is DISMISSED because I  
3 decline to exercise my discretion under 28 U.S.C. § 158(a)(3) to hear the interlocutory appeal.

4 I FURTHER ORDER that appellant Yousif Halloum's outstanding motions (**ECF No.**  
5 **16, 19, 22, 31, 32, 34-37, 42-44, 46, 49, 53, 54**) are **DENIED as moot.**

6 I FURTHER ORDER the clerk of the court to close this file.

7 DATED this 22nd day of January, 2020.

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10 **ANDREW P. GORDON**  
**UNITED STATES DISTRICT JUDGE**